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## **OLR Bill Analysis**

### **HB 6609**

#### ***AN ACT CONCERNING NURSING HOME TRANSPARENCY.***

#### **SUMMARY:**

This bill requires every for-profit chronic and convalescent nursing home (this appears to mean each for-profit nursing home, see BACKGROUND) that receives state funding to include in its annual cost report to the Department of Social Services (DSS) a profit and loss statement from each related party that receives \$10,000 or more a year from the nursing home for goods, “fees,” and services. (Presumably, this means any money the related party receives in fees, not for them.) Cost reports are used to determine the rate DSS pays nursing homes for serving Medicaid-eligible residents.

Under the bill, a “related party” includes any company related to the nursing home through family association, common ownership, control, or business association with any of the home’s owners, operators, or officials. A “profit and loss statement” is the most recent annual statement on profits and losses that the related party finalizes before the annual report the law mandates.

EFFECTIVE DATE: July 1, 2013

#### **BACKGROUND**

##### ***Nursing Home Cost Reports***

State law requires nursing homes to submit cost reports to DSS by each December 31. These reports include an accounting by the homes of any related-party transactions that occur during the reporting period. The report form includes space for the home to indicate, for each related party and regardless of the amount of the transaction:

1. the related individual or company name and address;
2. whether the entity also provides goods and services to non-

related parties and the percentage of revenue the entity receives from the non-related parties;

3. a description of the goods and services provided;
4. where (page and line number ) on the cost report these costs are shown;
5. the cost reported; and
6. the actual cost to the related party.

### ***Federal Requirements***

Federal law requires nursing homes that receive Medicaid funding to disclose to the state Medicaid agency information on related parties, including information on:

1. anyone with direct or indirect ownership in the home of 5% or more;
2. officers, director, and partners;
3. managing employees;
4. anyone who is an “additional disclosable party” (defined as any person or entity who (a) exercises operational, financial, or managerial control over the facility or a part thereof, provides policies or procedures for any of the operations, or provides financial or case management services to the facility; (b) leases or subleases real property to the facility, or owns a whole or part interest of 5% or more of the total property value of the facility; or (c) provides management or administrative services, management; or clinical consulting, accounting, or financial services to the facility (42 USC Sec. 1320a-3).

Federal regulations permit nursing homes to include as allowable costs those they incurred from procuring services, facilities, and supplies furnished by an entity related by common ownership or control. The maximum that is allowed is the actual cost to the related

party. But, the regulations allow homes to include the actual charge for goods and services if the home can demonstrate by convincing evidence that:

1. the supplying organization is a bona fide separate organization;
2. a substantial part of its business activity of the type it is carrying on with the home is also transacted with others and that there is an open, competitive market for the type of services, facilities, or supplies the entity provides;
3. the services, facilities, or supplies that institutions commonly obtain from other entities are not a basic element of patient care that the home ordinarily would furnish directly to its residents; and
4. the charge to the home is in line with the charge in the open market and no more than the entity would charge any others for the same goods and services (42 CFR Sec. 413.17).

### ***Nursing Home Licensing Designation***

By law, nursing homes must be licensed by the Department of Public Health. The license can be for skilled (also called chronic and convalescent) beds, intermediate care (also called rest home with nursing supervision) beds, or both. The Medicaid reimbursement for the skilled beds is higher than that for the intermediate care beds.

### **COMMITTEE ACTION**

Human Services Committee

Joint Favorable

Yea    12    Nay    6    (03/21/2013)